

of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1885 by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference ¹ and by adding at the end of the section the footnote to read as follows:

§ 522.1885 Prednisolone tertiary butylacetate suspension.

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- (c) *Conditions of use*, (1) * * * 1
 (2) * * * 1
 (3) * * * 1
 (4) * * * 1

Effective date. This regulation is effective May 6, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated:

April 25, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-13678 Filed 5-5-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations; Court of Indian Offenses

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: There is an urgent and compelling need for judicial and law enforcement services on the Pleasant Point and Indian Township Indian Reservations in the State of Maine. As a result of a recent decision by the Maine Supreme Court, *State of Maine v. Dana*, 404 A.2d 551 (1979) cert. denied, 48 LW 3523 (1980), justice is no longer effectively administered under State laws and by State law enforcement authorities on either reservation. The withdrawal of these services has left a void in the law and order program in the two areas and could have serious effect on the safety of their residents. Furthermore, the Associate Solicitor, Division of Indian Affairs, has determined that both the Pleasant Point and Indian Township Reservations are Indian country within the meaning of 18 U.S.C. 1151. Therefore, these events necessitate the establishment of an Indian court system which will provide an adequate machinery for law

enforcement on the Pleasant Point and Indian Township Indian Reservations. The establishment of a Court of Indian Offenses to serve these two reservations is only intended to be a temporary measure necessary to the effective administration of justice on the two reservations. It is not intended to prevent the Tribe on either reservation from securing other means of achieving the effective administration of justice, and legally removing either reservation from the application of the regulations under Part 11.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT:

George T. Skibine, Acting Judicial Services Officer, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20240, telephone: (202) 343-7885.

SUPPLEMENTARY INFORMATION: This revision is made under the authority contained in 5 U.S.C. 301 and 25 U.S.C. 2, and delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs, in a notice published on January 31, 1979, 44 FR 7235, has determined that the Passamaquoddy Tribe of Maine is an entity having a government-to-government relationship with the United States and which the United States recognizes as eligible for programs administered by the Bureau of Indian Affairs.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The usual 30 calendar days deferred effective date period has been waived under 43 CFR 14.5(b)(5)(ii)(B) to expedite the prompt establishment of the Court of Indian Offenses in order to minimize the potential danger to the residents of the two areas resulting from inadequate law enforcement.

Proposed regulations were published in the Federal Register, Vol. 45, No. 49, at 15570 and 15571 on March 11, 1980. No comments were received during the comment period.

The principal author of this document is George Skibine, Branch of Judicial Services, Division of Tribal Government Services. Section 11.1(a) of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations is amended by adding subparagraph (30) to read as follows:

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, §§ 11.1-11.87 of this part apply to the following Indian reservations:

* * * * *

(30) Pleasant Point and Indian Township (Maine).

Dated: April 25, 1980.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-13747 Filed 5-5-80; 8:45 am]

BILLING CODE 4310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1485-1]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) announces today final rulemaking on revisions to the Michigan State Implementation Plan (SIP). These revisions were submitted to USEPA by the State to satisfy the requirements of Part D of the Clean Air Act (Act). USEPA published a notice of proposed rulemaking on these revisions on August 13, 1979 (44 FR 47350). Based on its review of the State's response and the public comments, USEPA takes final rulemaking action to approve, or conditionally approve, specific portions of the Michigan submittal as revisions to the federally approved Michigan State Implementation Plan. This Final Rulemaking action does not address the adequacy of State rules to control emissions from the iron and steel making industry; Consent Orders submitted as part of the State's control strategy for the sulfur dioxide nonattainment areas; the ozone control strategy; transportation control plans; inspection and maintenance provisions; carbon monoxide control strategy for the Detroit nonattainment area; Prevention of Significant Deterioration (PSD) provisions; and the general requirements of the Clean Air Act which are not Part D requirements (Sections 121, 126, 127, 128, and 110(a)(2)(k)). The provisions which are part of Michigan's Part D SIP or are general requirements of the Clean Air Act are, or will be, addressed in separate Notices of Proposed Rulemaking.

EFFECTIVE DATE: This final rulemaking becomes effective on May 6, 1980.

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

ADDRESSES: Copies of the SIP revision, public comments on the Notice of Proposed Rulemaking (44 FR 38587), and USEPA's evaluation and response to comments are available for inspection at the following addresses:

U.S. Environmental Protection Agency;
Region V, Air Programs Branch, 230
South Dearborn Street, Chicago,
Illinois 60604.

U.S. Environmental Protection Agency,
Public Information Reference Unit, 401
M Street, S.W., Washington, D.C.
20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch,
Region V, U.S. Environmental Protection
Agency, 230 South Dearborn Street,
Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION: On
March 3, 1978 (43 FR 8962) and on
October 5, 1978 (43 FR 45993), pursuant
to the requirements of section 107 of the
Clean Air Act (Act), as amended in 1977,
USEPA designated certain areas in each
state as nonattainment with respect to
National Ambient Air Quality Standards
(NAAQS) for total suspended
particulates (TSP), sulfur dioxide (SO₂),
carbon monoxide (CO), ozone (O₃), and
nitrogen dioxide (NO₂).

Part D of the Act, added by the 1977
amendments, requires each state to
revise its SIP to meet specific
requirements for areas designated as
nonattainment. These SIP revisions must
demonstrate attainment of the primary
National Ambient Air Quality Standards
by December 31, 1982, and in certain
circumstances no later than December
31, 1987 for ozone and/or carbon
monoxide. The requirements for an
approvable SIP are described in a
Federal Register notice published April
4, 1979 (44 FR 20372). Supplements to the
April 4, 1979 notice were published on
July 2, 1979 (44 FR 38583), August 28,
1979 (44 FR 50371), September 17, 1979
(44 FR 53761), and November 23, 1979
(44 FR 67182).

On April 25, 1979, the State of
Michigan submitted its proposed SIP to
USEPA to satisfy the requirements of
Part D. USEPA published a notice of
proposed rulemaking on the proposed
revisions on August 13, 1979 (44 FR
47350). The notice of proposed
rulemaking (NPR) described the nature
of the SIP revisions. The notice also
specified areas of the SIP submittal
which in USEPA's judgment did not
comply with the requirements of the
Clean Air Act and needed either
clarification or correction by the State.
The State of Michigan submitted
comments and commitments to USEPA
in its October 12, 1979, response to the

NPR. On March 31, 1980, Michigan
submitted revisions to the conditional
approval schedules for TSP. In addition,
USEPA received several public
comments on the Michigan submittal
and on USEPA's proposed action on it.
Significant comments and USEPA's
response to them are discussed where
applicable below.

In the August 13, 1979 notice, USEPA
indicated that some of the regulations in
the State's submittal were preliminarily
adopted by the Michigan Air Pollution
Control Commission (MAPCC) and
would be finally adopted after
completion of necessary State
administrative procedures. USEPA
stated that until all State administrative
requirements were satisfied, it would
not complete Federal rulemaking on the
SIP revisions. On January 9, 1980,
USEPA received a letter from the State
which demonstrated that all regulations
were finally adopted and would take full
effect January 18, 1980. A review by
USEPA of the regulations finally
adopted by Michigan revealed that the
final regulations were the same as those
submitted April 25, 1979 as a part of
Michigan's Part D State Implementation
Plan except that Michigan had modified
the numbering system slightly and had
removed the provisions pertaining to
Part C of the Act (Prevention of
Significant Deterioration). The rules,
however, contain a reference to the
same numbers used in the original
submittal so that comparison of the
rules is easily accomplished. USEPA has
reviewed these finally enacted
regulations and has determined that the
requirement for legal adoption of
regulations contained in Section
110(a)(2) of the Clean Air Act has been
met. Although Michigan submitted all
the rules of the Michigan Air Pollution
Control Commission on January 9, 1980
many of these rules had been previously
submitted to and approved by USEPA.
In this final rulemaking action USEPA is
taking no action on the rules already
approved by USEPA but will note the
recodification of the rules. The only final
rulemaking action taken today on
Michigan Rules is on those rules which
have not been previously approved by
USEPA and on which Michigan is
relying as part of its control strategy for
nonattainment areas. The rules which
are not part of Michigan's control
strategy for nonattainment areas and
which have not been previously
approved by USEPA will be addressed
in a separate notice of proposed
rulemaking.

This Federal Register notice addresses
public comments in two parts: (1)
General comments on the Michigan SIP

and on the criteria used by USEPA to
evaluate all SIPs; and (2) Comments on
specific portions of the Michigan
submittal and on USEPA's evaluation of
specific portions of the SIP. The second
part of this notice briefly identifies by
pollutant or topic the deficiencies cited
in the August 13, 1979 Federal Register
notice, discusses both the State's
response and the response of other
commentors, and contains USEPA's
response to comments and its final
determinations.

USEPA's final determinations take
one of three forms: approval, conditional
approval, or disapproval. A discussion
of conditional approval and its practical
effect appears in the July 2, 1979 Federal
Register (44 FR 38583) in a supplement
to the General Preamble. The
conditional approval requires the State
to submit additional materials by the
specified deadlines negotiated between
the State and the USEPA Regional
Office. Schedules submitted by
Michigan will be proposed for public
comment elsewhere in this Federal
Register. Although public comment is
solicited on the deadlines, and the
deadlines may be changed in light of the
comments, the State remains bound by
its commitment to meet the proposed
deadlines, unless they are changed.
USEPA will follow the procedures
described below when determining if
requirements of conditional approval
have been met:

1. When the State submits the
required additional documentation,
USEPA will publish a notice in the
Federal Register announcing receipt and
availability that the conditional
approval is continuing pending USEPA's
final action in the submission.

2. USEPA will evaluate the State's
submission and public comment on the
submission to determine if noted
deficiencies have been fully corrected.
After review is complete, a Federal
Register notice will either fully approve
the plan if all conditions have been met,
or withdraw the conditional approval
and disapprove the plan. If the plan is
disapproved the Section 110(a)(2)(I)
restrictions on construction will be in
effect.

3. If the State fails to submit the
required materials according to the
negotiated schedule, USEPA will publish
a Federal Register notice shortly after
the expiration of the time limit for
submission. The notice will announce
that the conditional approval is
withdrawn, the SIP is disapproved, and
Section 110(a)(2)(I) restrictions on
growth are in effect.

The following chart summarizes the
actions taken by USEPA today on the
Michigan submittal:

1. Approval

- a. Maintenance/malfunction provisions.
- b. New source review regulations.
- c. Carbon monoxide control strategy for the Saginaw area.
- d. Hydrocarbon RACT rules contained in the Michigan Air Pollution Control Commission Rules, Part 6, with the exception of Rules 336.1603 and 1606.
- e. Total suspended particulate study schedules for secondary nonattainment areas.

2. Conditional Approval

- a. Hydrocarbon RACT rules R 336.1603 and 1606.
- b. Total suspended particulates control strategy for primary and secondary nonattainment areas which do not include iron and steel sources.

3. No Action.

- a. General requirements of the Clean Air Act which are not Part D requirements (Sections 121, 126, 127, 128 and 110(a)(2)(K)).

Rulemaking on the following requirements will be published in a separate Federal Register notice to be published shortly.

- b. Ozone control strategy.
- c. Transportation control plans for Detroit, Flint, Lansing and Grand Rapids.
- d. Inspection/maintenance for the Detroit urban area.
- e. Carbon monoxide control strategy for the Detroit area.
- f. Particulate regulations for iron and steel industries.
- g. Sulfur dioxide control strategy for Ingham County.

Action on these provisions of the plan will be the subject of supplemental notices of proposed rulemaking. Until final action on these provisions, growth restrictions in the City of Detroit nonattainment area will continue for sources emitting photochemical oxidants and carbon monoxide and also in those nonattainment particulate areas where iron and steel industries are located; and in the sulfur dioxide nonattainment area of Ingham County, Michigan, for sources emitting sulfur dioxide.

- h. Prevention of Significant Deterioration.

These provisions were withdrawn from the April 25, 1979 submittal by Michigan in a letter dated July 25, 1979. In this letter Michigan requested a delegation of authority to implement the prevention of significant deterioration program. A delegation of this authority was granted by USEPA on September 10, 1979. The notice of such delegation was published at 45 FR 8299 (February 7, 1980).

The following sections will discuss general and pollutant specific deficiencies in the Michigan SIP noted by USEPA in the August 13, 1979, Notice of Proposed Rulemaking, State and public comment in response to that Notice, and USEPA's final determinations and rulemaking actions. USEPA has determined that good cause exists for making these revisions immediately effective. By making this final rulemaking immediately effective, some of the restrictions on industrial growth contained in section 110(a)(2)(I) of the Clean Air Act will be lifted from the State of Michigan. These restrictions are imposed for failure to have a State Implementation Plan which meets the requirements of Part D after the final date for SIP approval specified in the Act. USEPA has determined that a major portion of the Michigan State Implementation Plan meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth in all nonattainment areas for thirty days after the publication of this notice.

Plan Requirements for Nonattainment Areas

In addition to the general requirements applicable to all State Implementation Plan revisions, the revised plan must satisfy the requirements of Part D of the Act. In the August 13, 1979 Notice of Proposed Rulemaking, USEPA indicated that the proposed revision to the Michigan SIP did not meet the requirements of section 172(b)(9) of the Act because it did not include an identification and analysis of the air quality, health welfare, economic, energy, and social effects of the plan provisions chosen, the alternatives considered, and a summary of the public comment on the analysis. USEPA believes that the State has satisfied these requirements through discussions in the original SIP submittal, the submittal of supplemental information identifying and analyzing the impact areas, and the submittal of a summary of public comments.

In addition to the comments submitted by the State of Michigan and the public specifically addressing the August 13, 1979 Notice of Proposed Rulemaking (44 FR 47350), one commentator submitted extensive national comments and requested that the comments be considered part of the record for each state plan. Although some of the issues are not relevant to provisions in Michigan's submission USEPA notified the public on its response to these comments at 45 FR 11472, 11474 (February 21, 1980).

Total Suspended Particulates

Part D of the Clean Air Act requires State Implementation Plans to include strategies and regulations adequate to insure attainment of the Primary National Ambient Air Quality Standards as expeditiously as practicable but not later than December 31, 1982, and in the interim, to provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT). The statute requires that the secondary standards be attained within a reasonable time. Where attainment cannot be demonstrated despite the application of reasonably available control technology to traditional sources of particulate matter, USEPA will accept as a basis for approval a commitment by the State to conduct additional studies on the causes for particulate nonattainment, including the degree to which nontraditional area sources of particulate matter affect air quality, and to develop and to submit to USEPA additional enforceable strategies adequate to demonstrate attainment of the primary standards by the statutory attainment date.

Primary and Secondary Nonattainment Areas

Four areas of the State of Michigan including portions of the Detroit metropolitan area, Saginaw, Flint, and Albion, have been designated as nonattainment for the primary particulate National Ambient Air Quality Standards. An additional 20 areas are designated as nonattainment for the secondary particulate standard. These areas are delineated at 40 CFR Part 81.

As discussed in the August 13, 1979, Federal Register the State's analysis of the designated nonattainment areas indicates that despite the application of reasonably available control technology through new regulations, together with existing regulations, the particulate SIP may not be adequate to provide for attainment of the primary or secondary TSP NAAQS by December 31, 1982. Therefore, the Michigan SIP contained commitments to conduct additional studies including a study on nontraditional source control, to adopt industrial fugitive regulations that represent RACT for traditional sources, and to adopt additional controls beyond RACT on traditional sources if necessary. USEPA proposed to conditionally approve these commitments if the State submitted a more detailed schedule for the completion of the studies and the adoption of any necessary new regulations.

The State's October 12, 1979 response satisfactorily outlined a detailed plan to study the causes of particulate nonattainment and to develop strategies to attain and maintain the particulate standards. The State submitted revised schedule dates on March 31, 1980. The studies will focus on the ambient impact from nontraditional sources of particulates, on methods of controlling these sources, and on the contribution of traditional sources with RACT controls to particulate nonattainment.

The State has committed itself to complete additional studies in the Detroit area for an attainment strategy by June 1980 and to adopt statewide industrial fugitive regulations and any other regulations necessary to attain and maintain the particulate NAAQS. The State has also committed itself to submit to USEPA the adopted industrial fugitive regulations by January 1, 1981.

Because the State has been unable to demonstrate attainment despite the application of RACT to traditional sources of particulates and has made a satisfactory commitment to study the causes of particulate nonattainment and to adopt additional regulations to achieve attainment, USEPA approves the State's approach to demonstrating attainment. As discussed below, USEPA conditionally approves the Michigan particulates SIP for those nonattainment areas which do not include iron and steel sources. USEPA is taking no action at this time on the particulate plan as it is applied to iron and steel sources. Therefore, the growth prohibition of Section 110(a)(2)(I) of the Act continues to apply only in those particulate nonattainment areas containing iron and steel sources.

This notice follows the general format of the August 13, 1979 Federal Register. No public comments other than the State's response were received by USEPA on the TSP portion of Michigan's SIP.

Statewide

On January 9, 1980 the State submitted the officially adopted rules of the Michigan Air Pollution Control Commission. Part 3 of these rules covers emission limitations and prohibitions for particulate matter. Specific Statewide emission limitations for traditional sources are contained in Rule 336.1331 (formerly rule 336.44). This rule was amended and proposed for adoption by the State in February 1979 and submitted to USEPA on April 25, 1979. USEPA proposed approval of the amended rule in the August 13, 1979 Federal Register. The officially adopted rule submitted to USEPA on January 9, 1980, is essentially identical to the

previously adopted rule. Therefore, USEPA approves Rule 336.1331 as meeting the requirements of the Clean Air Act with the exception of specific regulations covering sources in the iron and steel source category. As discussed above, USEPA is taking no action on this source category at this time.

Detroit

The August 13, 1979, Notice of Proposed Rulemaking identified deficiencies in the Michigan strategy which USEPA stated must either be clarified or be corrected. USEPA noted that while fugitive particulate emissions appear to be a significant contributor to nonattainment in the Detroit metropolitan area and may be an important component of the nonattainment problem in other areas, the State has not yet developed regulations to control particulates from these sources.

The April 25, 1979 submittal from the State contained commitments by the State to develop industrial fugitive regulations for at least the primary nonattainment area in Wayne County (Detroit) by October 1, 1979, to adopt site specific abatement orders, and to conduct additional studies, including the study of nontraditional source impacts. USEPA found this approach generally acceptable but noted the following deficiencies in the August 13, 1979 Federal Register.

1. The commitment by the State of Michigan to develop and adopt industrial fugitive regulations was not accompanied by a detailed schedule for the completion of the proposed and ongoing studies and for the adoption of any additional regulations beyond RACT that are shown to be necessary to demonstrate attainment. A detailed schedule must contain projected dates for all necessary actions to be carried out by the State of Michigan prior to submittal of a SIP revision to USEPA.

State Response

Since the publication of the Notice of Proposed Rulemaking, the State has submitted a draft of its industrial fugitive rules. In the draft rules the State has extended the rules' coverage to all primary and secondary particulate nonattainment areas. USEPA had indicated in the Notice of Proposed Rulemaking that the State had committed itself to apply these regulations at least in the primary nonattainment area in Wayne County.

The rules have been adopted by the Commission for the purpose of holding public hearings. Public hearings on the rules were held on January 22, 24, and 28, 1980. The remainder of the rule

adoption schedule committed to by Michigan in its submittals of October 12, 1979 and March 31, 1980 includes the following items and completion dates:

1. Conduct public hearings throughout the State..... Jan. 1980
2. Prepare a summary of the public comments and revise rules if appropriate..... Feb. 1980
3. Formal rule adoption by the Commission..... Apr. 1980
4. Obtain approval from the legislative Service Bureau, Attorney General's Office and Joint Legislative Rules Committee..... Aug. 1980
5. File rules with Secretary of State and submit to USEPA for approval..... Jan. 1981

In regards to the need for additional studies in the Detroit area, the State has committed itself to analyze the results of filter analysis, perform particle size distribution work, refine their source emission inventories and examine the appropriate meteorological parameters in order to demonstrate the adequacy of the control strategy. On March 31, 1980, the State submitted revisions to the schedule for the Detroit studies.

Accordingly, the Air Quality Division commits itself to the following schedule:

Item	Completion date
1. Particle size distribution report.....	Feb. 1980.
2. Refinement of the emission inventory.....	June 1980.
3. Assessments of meteorological variables.....	June 1980.
4. Analysis of the microscopy report.....	June 1980.
5. Submit study results to USEPA.....	Sept. 1980.

USEPA Response and Final Determination

USEPA believes that both the State's commitment and schedule to adopt industrial fugitive regulations are acceptable. Therefore, USEPA approves the particulate control strategy for Detroit on the condition that the State submit its statewide, finally adopted, industrial fugitive regulations to USEPA by January 1, 1981. A notice soliciting public comment on the acceptability of the schedule to adopt the industrial fugitive regulations and to conduct further studies appears elsewhere in today's Federal Register.

2. In the Notice of Proposed Rulemaking, USEPA requested a commitment from the State to develop and adopt nontraditional area source controls and point source controls more stringent than RACT in the Detroit area if these controls are necessary to demonstrate attainment.

State Response

The State has committed itself to drafting and proposing additional regulations necessary for attainment of the primary NAAQS as expeditiously as

possible and within a reasonable time for the achievement of secondary standards. The State predicates this commitment upon the completion of the proposed studies.

USEPA Response

Michigan has committed to conduct additional studies in the Detroit area and has committed to review and adopt nontraditional source controls and any necessary additional regulations for controls beyond RACT. The Clean Air Act mandates that the TSP NAAQS be attained in all nonattainment areas by December 31, 1982, and the secondary standards as expeditiously as practicable. If the State of Michigan is unable to demonstrate attainment by the application of RACT and the adoption and enforcement of industrial fugitive regulations, the State will be required to submit further regulations in order to demonstrate attainment.

3. USEPA commented in the August 13, 1979 Notice of Proposed Rulemaking that the Michigan submittal did not contain specific test methods for measurement of visible emissions from either continuous or intermittent sources of particulates. USEPA stated that acceptable test method or methods for these source categories must be promulgated and submitted to USEPA as a portion of the SIP.

State Response

Michigan, in its response, directed our attention to Rule 336.1303, "Grading Visible Emissions", for visual emission observations of stationary sources. This test method is on file with the Commission. A copy of the method was resubmitted to USEPA in a letter dated February 6, 1980.

USEPA Response

USEPA's assessment that the submittal did not contain a test method was in error. The Michigan submittal referenced a rule on file with the Commission.

USEPA has reviewed the visible emission test method and finds it acceptable as an enforceable compliance test method for both continuous and intermittent sources:

As previously noted, no action is being taken on iron and steel sources. Specific deficiencies in the opacity regulations for iron and steel sources will be proposed for comment with the remainder of the rules covering these sources in a separate Federal Register package.

Saginaw, Flint, and Albion

The State of Michigan plans to develop specific abatement orders for

controls beyond RACT which would apply to individual sources located in the Saginaw, Flint and Albion nonattainment areas, including sources of fugitive particulate emissions, that have been shown to cause or contribute to violations of the National Ambient Air Quality Standards. USEPA found this approach generally acceptable but noted the following deficiencies in the Notice of Proposed Rulemaking:

1. Specific abatement orders that require controls beyond RACT must be codified in a manner enforceable by the State and submitted to USEPA as a SIP revision before the State can claim emission reduction credits for control at these facilities.

State Response

The State has committed itself to submit the abatement orders or consent agreements which require controls beyond RACT along with air quality demonstrations for companies in the primary nonattainment areas of Flint, Albion, and Saginaw. All orders for these areas have been approved by the Air Pollution Control Commission and the air quality demonstrations supporting these orders have been completed. On March 10, 1980, the State submitted the abatement order for the Albion nonattainment area.

USEPA Response

The State has indicated that it is relying on these abatement orders to demonstrate attainment. Further, the State has committed to submit these abatement orders for specific sources and the accompanying attainment demonstrations for Saginaw, Flint, and Albion. The State's abatement order or consent agreement mechanism has been determined to provide legally enforceable emission limitations at the State level. The submittal of these orders or agreements to USEPA as site specific SIP revisions will also insure that these agreements are a legally enforceable part of Michigan's SIP. The approval or disapproval of specific abatement orders will be the subject of separate Federal Register notices.

2. Industrial fugitive regulations must be applicable to all particulate nonattainment areas unless the source specific regulations developed for these areas are sufficient to demonstrate attainment of NAAQS. The fugitive regulations should include control of particulates from storage piles, plant roads, loading and unloading operations, mineral handling and processing operations and emissions from building openings.

State Response

Michigan stated that the industrial fugitive rules that are now in the process of development and adoption will apply to all primary and secondary nonattainment areas in the State. In addition, for the Saginaw, Flint, and Albion nonattainment areas, the State plans to develop specific abatement orders which are beyond RACT for individual sources, including sources of fugitive particulate emissions, that have been shown to cause or contribute to violations of the NAAQS. On March 10, 1980, the State submitted the abatement order for the Albion nonattainment area.

USEPA Response

Michigan's response that the industrial fugitive regulations proposed for adoption will apply to all primary and secondary nonattainment areas and the commitment to develop and to propose adoption of specific abatement orders in Saginaw, Flint, and Albion is acceptable. The abatement orders will be reviewed as site specific SIP revisions and will be the subject of separate Federal Register notices.

Secondary Nonattainment Area Studies

Michigan's plan for secondary nonattainment areas consists of a commitment to conduct additional studies in all secondary nonattainment areas, and a commitment to develop regulations if necessary. The studies will include updating the point source emission inventory, adding area sources to the inventory, undertaking additional modeling and conducting particle microscopy work. The submittal includes a schedule for completing these studies which divides the secondary nonattainment areas into four categories based on the number of samples and the magnitude of the readings exceeding the standards. The studies in each of the four categories will be completed on June 30, 1980, October 30, 1980, February 28, 1981, and June 30, 1981, respectively.

The State has committed itself to develop enforceable control orders or additional emission limitations within one year of the completion of the studies for each area, as noted above. A commitment is also made to attain the secondary standards within four years of the completion of the studies in each area. Thus, the secondary standards will be attained within a period between June 1984 and July 1985.

USEPA proposed in the August 13, 1979 Federal Register to approve the schedule and the commitments to analyze, select and adopt control measures for the secondary particulate nonattainment areas on the condition

that key milestones are identified for evaluating progress in the development of a SIP to attain the secondary standards.

State Response

The types of studies that are contemplated for all of the secondary areas include a refinement of the emission inventory, an analysis of the impact of meteorological variables on the sample results, an analysis of the microscopy report and an examination of the desirability of conducting additional dispersion modeling.

The study schedule identified in the SIP at Table 2.14 on page 2-53 envisages completion of all of the items listed above within the specified time frame. The State reinforced its commitment to complete the studies according to schedule, but stated that interim milestones were not necessary.

USEPA Response

USEPA has reviewed the State's commitment and the time schedule for completing additional studies contained in the SIP. USEPA finds the State's reinforcement of their commitment to the necessary elements of the required additional studies is satisfactory without the addition of interim milestones. Therefore, USEPA approves the secondary nonattainment area study commitments. The adoption of any necessary additional control measures and the attainment demonstration will be the subject of a separate Federal Register notice.

Modeling Demonstrations

In the Notice of Proposed Rulemaking, USEPA stated that the State must provide a demonstration of attainment of the particulate National Ambient Air Quality Standard for all currently designated nonattainment areas. Estimates of industrial fugitive emission impacts must be supported by a comprehensive analysis of meteorological data, monitored air quality data, and filter analysis. A summary of any further modeling analyses should be submitted. The summary should include a map identifying monitored and modeled receptor locations and the highest predicted annual concentrations and highest and second highest concentrations predicted in the short term analysis at all receptors on all days modeled. A description of the derivation and use of background concentrations should be included.

State Response

The State pointed to previous difficulties with modeling in the

secondary nonattainment areas, and committed itself to provide an attainment demonstration utilizing the best available analytical tools. This includes filter analysis, meteorological analysis and the compilation of microinventories.

USEPA Response

Because of the particular problems and constraints inherent in the previous dispersion modeling analysis conducted by the State, USEPA will not mandate an air quality demonstration supported by modeling. The alternative analytical tools identified by the State are technically sound and should provide the information necessary to support any additional necessary control measures. However, the filter analysis method on which the State places emphasis may not be sufficient as the only analytical tool for situations in which traditional sources are the prime contributors to nonattainment. For such circumstances the adequacy of a filter analysis alone may be restricted by (1) the limited number of available sampling sites for analysis, which may not provide an adequate picture of source culpability, (2) the limited number of filters analyzed per site which may not cover the appropriate set of meteorological conditions and (3) the limited number of filters analyzed over time may not adequately address the annual standard.

USEPA Final Determination

USEPA conditionally approved Michigan's control strategy for the attainment of the primary and secondary TSP NAAQS in particulate nonattainment areas that do not contain iron and steel sources with the condition that Michigan conduct the necessary particulate studies in the Detroit area and adopt final industrial fugitive regulations that represent RACT for traditional sources. The State must submit these regulations to USEPA by January 1, 1981.

USEPA's action today finally approves the Michigan TSP study schedules for attainment of the secondary TSP NAAQS.

Sulfur Dioxide

Portions of Midland and Ingham Counties were designated as nonattainment for the sulfur dioxide National Ambient Air Quality Standards. These two areas were designated nonattainment because a source in each area, in contravention to Section 123 of the Act, was utilizing a supplementary control system (SCS) to demonstrate attainment of the sulfur dioxide (SO₂) National Ambient Air

Quality Standards (NAAQS). At the time of the designation neither source was meeting the emission limitations in the federally approved SIP. The State's control strategy for these SO₂ nonattainment areas was to rely on the existing SO₂ emission limitations in its present regulations while requiring the two sources in the nonattainment areas to apply "continuous emission control systems," to meet those emission limitations. The requirement of "continuous emission control" systems was to be implemented through individual Consent Orders entered into by the two sources and the Michigan Air Pollution Control Commission (MAPCC) and submitted to USEPA as SIP revisions.

Ingham County

In the August 13, 1979 Notice of Proposed Rulemaking USEPA stated that the existing SIP would be adequate to attain and maintain the SO₂ NAAQS when all sources are complying with the applicable rules and are utilizing constant emission controls; and that as a result, "no further rulemaking was necessary".

On August 22, 1979 Michigan submitted a Consent Order entered into by the Michigan Air Pollution Control Commission (MAPCC) and the Lansing Board of Water & Light (Board), located in the City of Lansing, Ingham County. The Board had been utilizing an SCS to keep from violating the SO₂ NAAQS instead of meeting the emission limitations in the federally approved SIP. The Order and technical support submitted with the Order demonstrated that the Board's recent compliance with the emission limitations in the existing SIP was not adequate to protect the NAAQS since a potential for violation of the SO₂ NAAQS occurred as a result of aerodynamic plume downwash at the facility. The Order to correct the downwash required additional controls in the form of GEP stacks.

American Lung Association of Michigan commented on the strategy and challenged USEPA's statement that the existing SIP is adequate and that no further rulemaking is necessary. USEPA agrees with American Lung that technically such statement was incorrect insofar as the nonattainment area in Ingham County was concerned. The State of Michigan also commented that it agreed with American Lung's evaluation. In the August 13, 1979 Notice of Proposed Rulemaking USEPA was requesting comment on Michigan's SO₂ control strategy while emphasizing that it was not necessary to take any additional rulemaking action on Michigan's existing federally approved

regulations controlling SO₂ emission limitations from power plants: Sulfur dioxide emission limitations for power plants are contained in Tables 3 and 4 of Rule 49 (R. 336.49). These tables and rule have been recodified in the Michigan submittal of January 9, 1980 as Tables 41 and 42 of Rule 401 (R. 336.1401).

USEPA finds that Michigan's control strategy for the Ingham County nonattainment area (requiring the Board to complete good engineering practice (GEP) designed stacks by December 31, 1982 to eliminate the downwash problem in addition to meeting the emission limitations in the federally approved SIP) is adequate to demonstrate attainment of the SO₂ NAAQS by December 31, 1982.

American Lung in its comments also asserted that the Board's use of a SCS while the GEP stacks are being built was prohibited under the Clean Air Act. In a letter dated February 13, 1980, addressed to the Regional Administrator, Michigan withdrew this part of the SIP revision from review by USEPA. Therefore, that provision will not be a part of the federal plan. The provision remains, however, as a matter of State law under the stipulation signed by MAPCC and the Board.

USEPA, in a Notice of Proposed Rulemaking to be published shortly, is proposing to approve the Lansing Board of Water & Light Order under Part D requirements on the basis that the Order requires the Board to continue to meet the existing emission limitations in the federally approved SIP while at the same time it imposes additional requirements on the Board in order to provide for the attainment of the SO₂ NAAQS by December 31, 1982. Under Part D of the Act when a source is meeting its existing requirements, the source may be granted additional time to meet any additional requirements which are necessary to provide for attainment of the NAAQS. See General Preamble for Proposed Revisions for Nonattainment Areas (44 FR 20371, 20373, April 4, 1979).

USEPA Determination

USEPA is not taking action in this rulemaking notice on Michigan's SO₂ control strategy for the nonattainment area of Ingham County. The strategy which is contained in a Consent Order and which requires a source to construct GEP stacks to correct a demonstrated downwash problem is the subject of a separate notice of proposed rulemaking. Until final action on the Order USEPA will be unable to enforce Michigan's control strategy. Therefore, final approval by USEPA on Michigan's control strategy for Ingham County will

be contained in USEPA's final rulemaking on the Consent Order which implements that control strategy.

Midland County

A portion of Midland County was designated nonattainment because The Dow Chemical Co. (Dow), instead of meeting its emission limitation under the existing federally approved SIP, was using a SCS to demonstrate attainment of the NAAQS.

Michigan's control strategy is to require Dow to come into compliance with the existing emission limitations in the federally approved SIP by either burning compliance fuel or purchasing processed steam and electricity from a nuclear power facility still under construction. To implement its control strategy Michigan referenced in its Part D submittal a Consent Order entered into by Dow and the MAPCC on February 13, 1979. This Order had been previously submitted to USEPA as a site specific SIP revision on February 14, 1979.

USEPA disapproved this Order as a site specific SIP revision because (1) it lacked a demonstration that the primary and secondary NAAQS would be attained and maintained without use of SCS; (2) it did not provide for continuous emission reduction; and (3) it did not contain emission limitations for sulfur dioxide and particulates. See 45 FR 19566, March 26, 1980.

The Order was also reviewed to see if it met Part D requirements of the Act. In a Notice of Proposed Rulemaking published at 44 FR 9752 (February 13, 1980) USEPA proposes to disapprove the order because it grants Dow additional time to meet existing emission limitations.

As noted in the February 13, 1980 Notice of Proposed Rulemaking it is USEPA's position that Congress, in passing the 1977 Amendments, did not intend to provide sources more time to come into compliance with existing emission limitations. See General Preamble for Proposed Revisions for Nonattainment Areas (44 FR 20371, 20373, April, 1979).

American Lung commented that Michigan's sulfur dioxide control strategy does not provide for reasonable further progress by requiring sources in the nonattainment areas to adopt reasonably available control technology (RACT). USEPA has determined that the emission limitations in the federally approved SIP represent RACT and that reasonable further progress is met by Michigan's new source review regulations. These regulations require emission offsets of greater than one for

one and also require minor sources to be included in the permit program.

It is USEPA's position that there is no reason to question the adequacy of the emission limitations in Michigan's existing federally approved regulations. The Dow Chemical Co. has never met those limitations which call for Dow to use fuel with a sulfur content not to exceed 1.0 percent. The technical support submitted with those regulations demonstrated that enforcement of those regulations will protect the ambient air quality in Midland County.

On March 12, 1980 during the comment period on the February 13, 1980 Notice of Proposed Rulemaking, Michigan withdrew the Order as a SIP revision to meet Part D requirements on the basis that it was not necessary under Part D inasmuch as the enforcement of the existing SO₂ emission limitations was adequate to demonstrate attainment. USEPA agrees with the State's assessment. Therefore, no further rulemaking is necessary. A notice of withdrawal of USEPA's rulemaking in the Dow order as a Part D SIP revision will be published in the Federal Register shortly.

Ozone

As indicated in the August 13, 1979 Notice of Proposed Rulemaking, the Michigan submittal did not include ozone design values for each nonattainment area, a determination of the Volatile Organic Compound (VOC) reduction requirements of each area, or a demonstration of attainment of the ozone standard. USEPA proposed rulemaking only on the controls for stationary sources of VOC. Consequently, the measures approved in the discussion below constitute only a portion of the Michigan plan for attaining the ozone standard. Subsequent to the publication of the Notice of Proposed Rulemaking, the State submitted an ozone attainment demonstration which USEPA is in the process of reviewing. This final attainment demonstration and the adequacy of the ozone plan as a whole will be proposed for comment in the separate Federal Register notice. In addition, USEPA will propose rulemaking on Michigan's transportation control plans in a separate Federal Register notice to be published shortly.

Hydrocarbons From Stationary Sources

Section 172(b)(2) of the Clean Air Act requires the application of reasonably available control technology to stationary sources of VOC in nonattainment areas. USEPA has developed Control Techniques

Guidelines (CTGs) which provide information on available air pollution control techniques, and contain recommendations on what USEPA calls the "presumptive norm" for RACT. Where State regulations are not supported by the information in the CTGs, the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. An explanation of CTGs and their practical effect is contained in a September 17, 1979 supplement (44 FR 53761) to the General Preamble (44 FR 20371).

The minimum acceptable level of stationary source control for ozone SIPs includes RACT requirements for VOC sources covered by CTGs the USEPA issued by January 1978 and schedules to adopt and submit by each future January additional requirements for sources covered by CTGs issued the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by an August 28, 1979 Federal Register notice (44 FR 50371). The Michigan submittal includes a commitment by the State to adopt any additional rules representing RACT on stationary sources of VOC for which USEPA issues CTGs. The Administrator approves this commitment by the State as part of the federally approved Michigan State Implementation Plan.

Approval of the ozone portion of the Michigan plan is contingent, however, on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to USEPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to USEPA according to the time frame set forth in the rule, USEPA will promptly take appropriate remedial action.

Michigan submitted eighteen new rules containing stationary source controls representing RACT. These rules provide emission limitations and prohibitions for existing sources of volatile organic compounds. USEPA proposed to approve fourteen of these rules in the August 13, 1979 Notice of Proposed Rulemaking. No public comments were received on these rules or on USEPA's proposed approval. Therefore, USEPA approves Rules 336.1601, 1602, 1604, 1605, 1607, 1608,

1609, 1611, 1612, 1613, 1614, 1615, 1616, and 1617 as part of the federally approved Michigan SIP. USEPA also proposed to approve Rules 336.1603, 1606, 1610, and 1618 if the State clarified or corrected portions of each rule which, in USEPA's judgment, were deficient. On October 12, 1979, the State responded to USEPA's proposed rulemaking. With the exception of comments on Rule 336.1610 by the Ford Motor Company, no public comments were received on these four regulations or on USEPA's proposed action. As discussed below, USEPA approves Rule 336.1618 based on the State's response and Rule 336.1610 based on the State's response and on the Ford Motor Company's comments. Based on the State's response, Rules 336.1603 and 1606 are approved subject to the State satisfying the conditions outlined in the discussion below.

The following discussion identifies the deficiencies described in the August 13, 1979 Notice of Proposed Rulemaking, summarizes the State's response and any public comments, and contains USEPA's response and final determination.

1. Although Rule 336.1603 specifies final compliance dates for sources regulated under these rules, it does not contain the interim increments of progress required by 40 CFR Part 51.15.

State Response

The State of Michigan has made a commitment to submit detailed compliance schedules containing the increments of progress required by 40 CFR Part 51.15 within one year of the effective date of this rule for sources with final compliance dates prior to December 31, 1982, and by not later than 18 months from the effective date of this rule with final compliance dates beyond December 31, 1982.

USEPA Response and Final Determination

Based on this commitment, USEPA conditionally approves Rule 336.1603 as part of the federally approved Michigan SIP. USEPA also approves the two-tier schedule committed to by the State for satisfying this condition. The schedule is identical to the schedule proposed by USEPA in the August 13, 1979 notice. By March 31, 1981, the State must submit detailed compliance schedules for sources with final compliance dates prior to December 31, 1982. By September 30, 1981, the State must submit detailed compliance schedules for sources with final compliance dates beyond December 31, 1982.

2. Rule 336.1606 exempts gasoline dispensing facilities in major urban

areas from the requirements for a vapor balance system when loading gasoline into existing stationary vessels of more than 2,000 gallons capacity if the throughput of the facility is less than 250,000 gallons per year. The exemption from controls for facilities with existing gasoline dispensing storage tanks of 2,000 gallon capacity or more and a throughput of less than 250,000 gallons per year is not technically supported by the State as representing RACT.

USEPA believes that vapor balance systems should be required for all existing gasoline dispensing storage tanks of 2,000 gallon or larger capacity regardless of throughput. USEPA has promulgated such a requirement in the past under section 110(c) of the Clean Air Act at 40 CFR Sections 52.336, 52.787, and 52.1144. In USEPA's judgment, the widespread implementation of vapor balance systems on tanks of 2,000 gallons or greater regardless of throughput demonstrates that this control is reasonable.

USEPA asked that the State of Michigan either submit documentation technically supporting its proposal as representing RACT, document that allowable emissions resulting from the use of this rule differ less than five percent from the allowable emissions resulting from a regulation which requires vapor balance systems on all gasoline storage tanks with a capacity of 2,000 gallons or more, or commit itself to extend the coverage of the rule to all gasoline dispensing facilities with storage tanks of 2,000 gallon or more capacity.

State Response

The State has made a commitment to either develop and submit to the Michigan Air Pollution Control Commission a new rule with a 120,000 gallon per year throughput exemption, or provide technical support demonstrating that allowable emissions resulting from the use of its existing rule deviate less than five percent from USEPA's recommended level of control. The State has made a commitment to fulfill these conditions within one year of the effective date of this rulemaking.

USEPA Response and Final Determination

USEPA finds the alternative commitments made by the State of Michigan acceptable. An August 17, 1979 memorandum by Richard Rhoads, Director of USEPA's Control Programs Development Division, on "Evaluation of 10,000 gallon per Month Throughput Exemption for Petroleum Marketing Operations" compares controlled

emissions using a 2,000 gallon capacity tank size exemption with controlled emissions using a 10,000 gallon per month (or 120,000 gallon per year) throughput exemption. This memorandum indicates that a 10,000 gallon per month throughput exemption results in 8 to 10 percent of the total national throughput being uncontrolled. According to the memorandum, a 2,000 gallon capacity tank size exemption results in 3 to 5 percent of the total national throughput being uncontrolled. Therefore, the allowable emissions resulting from the use of 10,000 gallon per month throughput exemption are within 5 percent of the allowable emissions resulting from the use of a 2,000 gallon capacity tank size exemption. Guidance contained in a June 30, 1978 memorandum by Richard Rhoads on "Vapor Recovery Regulations Required to Meet RACT Requirements for the 1979 SIP" indicates that if the impact on emission varies imperceptibly, USEPA can approve State regulations which differ only marginally from USEPA's technically supported levels of control without requiring technical justification from the State. The Rhoads' memorandum further indicated that as a guide, USEPA considers an impact on emissions of less than 5 percent imperceptible. Therefore, USEPA finds Michigan's commitment to develop a new rule with a 120,000 gallon per year throughput exemption acceptable. USEPA finds equally acceptable Michigan's alternative commitment to provide technical support demonstrating that allowable emissions resulting from the application of its existing rule are within five percent of the allowable emissions resulting from a 2,000 gallon tank size capacity exemption.

Based on this commitment and schedule, USEPA conditionally approves Rule 336.1606 as part of the federally approved Michigan SIP.

Although the State does not commit itself to promulgate the new rule, USEPA believes that the State's commitment and schedule to submit any necessary regulations to the Michigan Air Pollution Control Commission is adequate. USEPA recognizes that the State cannot legally prejudge the outcome of statutorily mandated regulatory proceedings. Nonetheless, in order to guarantee that the deficiency is adequately addressed and that the plan is adequate to satisfy the requirements of the Act, USEPA imposes the additional condition that any necessary regulation be finally promulgated by the State and submitted to USEPA by September 30, 1981.

In establishing the date by which any necessary regulation must be promulgated, USEPA has taken into consideration the lengthy Michigan Air Pollution Control Commission rulemaking procedures which require review of regulations by several State offices and committees and approval by the Michigan Legislature. A notice soliciting public comment on the acceptability of this schedule will appear in a separate Notice of Proposed Rulemaking published elsewhere in today's Federal Register.

3. Rule 336.1610 establishes an emission limitation for can end sealing of 4.2 pounds of VOC per gallon of coating less water prior to December 31, 1985 and 3.7 pounds of VOC per gallon of coating less water thereafter. The State's April 25, 1979 submittal did not technically support as representing RACT either the 4.2 pound emission limitation or the schedule for implementing a 3.7 pound emission limitation.

Technical support contained in the CTG document for can coating, of which can end sealing is a subcategory, demonstrates that RACT for can end-sealing compounds is 3.7 pounds of VOC per gallon of coating less water. Further, the data in the CTG document indicates that final compliance can be achieved by the can coating source category by December 31, 1982. Therefore, USEPA asked the State either to technically support its rule as representing RACT for can end sealing or to demonstrate that even with this emission limitation for can end sealing, allowable emissions for the entire can coating source category differ by less than 5 percent from the allowable emissions resulting from the application of the presumptive norms supported in the CTG.

In addition to this issue, USEPA identified three issues related to Rule 336.1610 and requested public comment. These three issues are discussed below under the USEPA's response and final determination or Rule 336.1610.

State Response

In its October 12, 1979 response, the State demonstrated that for the can coating source category the difference in allowable emissions resulting from the application of its rules rather than the CTG's presumptive norms is less than 5 percent. In order to make this demonstration, the State examined current emissions inventories as well as projections of 1982 emissions for the four facilities in Michigan with can coating operations. In addition, the State compared projections of 1982 emissions from can end sealing using the emission

limitation Michigan rule and using the recommended limit in the CTG.

With the exception of the emission limitation for can end sealing, Michigan's emission limitations for all other can coating operations are identical to the emission limitations technically supported in the CTG. Only two of the four can coating facilities in Michigan utilize can end sealing compounds. The State's comparison of 1982 projected emissions indicated that in the can coating category the difference between the allowable emissions resulting from the use of the Michigan can end sealing limitation of 4.2 pounds of VOC per gallon of coating less water and from the use of the CTG supported limitation of 3.7 is only 4.3 percent.

USEPA Response

USEPA has reviewed the State's demonstration and determined that it shows that allowable emissions resulting from the application of all Michigan rules for can coating operations are within five percent of the allowable emissions resulting from the application of the presumptive norms supported by the CTG. Therefore, USEPA approves the can end sealing emission limitations and schedule for their application in Rule 336.1610 as part of the federally approved Michigan SIP. A more detailed discussion of USEPA's review of the Michigan demonstration is contained in the rationale document located in the docket for this rulemaking.

In addition to the issue discussed above, USEPA highlighted and solicited public comment on three issues related to Rule 336.1610.

a. Rule 336.1610 contains two types of volatile organic compound emission limits for the surface coating of cans, coils, large appliances, metal furniture, magnet wire, fabric, vinyl, and paper. One limit is based on the maximum content of VOC in any coating applied and the second is based on a daily weighted average of all gallons of coating applied during any 24-hour period. USEPA noted in the August 13, 1979 Federal Register that averaging time is not addressed in the recommended CTG emission limits. USEPA also specifically identified cases in which either one or both of the emission limits in Rule 336.1610 vary from the emission limits recommended by the CTG.

Only the State of Michigan submitted comments on this issue. The State indicated that the emission control approach in Rule 336.1610 is not contradictory to the emission limits recommended in the CTG. Further, the

State argues that the averaging times specified in the rule are consistent with the overall oxidant control strategy. USEPA's review of the Michigan rule indicates that the State is correct. Seven of the eight surface coating operations must comply with emission limitations which reflect the limitations recommended in the CTG. The limitations for the eighth coating operation, vinyl surface coating, are discussed below in item b.

In an October 6, 1978 memorandum by Richard Rhoads containing "Comments on Auto Industry Proposals" and a November 21, 1978 memorandum by Richard Rhoads on "RACT Options for Can Coaters", USEPA allowed the use of daily weighted averaging for can and auto coaters. USEPA has subsequently determined that the use of daily weighted averaging is appropriate for all coating operations. USEPA bases this determination on the similar types and numbers of formulation for all surface coating operations.

b. Rule 336.1610 contains an emission limitation for vinyl coating of 4.5 pounds of VOC per gallon of coating applied minus water. Because there is only one vinyl coating plant in Michigan, this limit represents a site specific RACT determination for the Ford Motor Company vinyl coating plant in St. Clements, Michigan. Based on information in the CTG and from other plants engaged in the coating of automobile and industry-related products, USEPA questioned discrepancies in the data used to determine the emission limitation. These discrepancies related to the density of the coatings and the percent of solids by volume in the coatings. Both the State and the Ford Motor Company submitted comments on these issues.

The percent solids and the average solvent density relied on by the State to establish its emission limitation vary from the data used in the development of the presumptive norm in the CTG. The CTG for surface coating of vinyl recommends an emission limitation of 3.8 lbs/gallon. This emission limitation is based on the coatings containing 15 percent volume solids, an average solvent density of 7.35 lbs/gallon, and use of an add-on control device with an overall control efficiency of 81 percent.

In determining the vinyl coating emission limit, the State relied on information submitted to it by the Ford Motor Company. The State used 8.5 percent volume solids as the average composition of all coating utilized at the Ford vinyl coating plant. The State used 6.74 pounds per gallon as the composite density of all solvents. Finally, the State based its determination on the use of

add-on control devices with an overall control efficiency of 81 percent. Based on this data, the State concluded that an emission limitation of 4.5 lbs/gallon represents RACT for this vinyl coating plant. The comments and technical information submitted by the Ford Motor Company explain the discrepancies in data cited by USEPA in the Notice of Proposed Rulemaking and substantiate the data used by the State. A detailed discussion of USEPA's review of the data submitted by Michigan and the Ford Motor Company is contained in the rationale document located in the docket for this rulemaking.

USEPA believes that the technical support submitted by the State and the Ford Motor Company adequately documents that an emission limitation of 4.5 lbs/gallon represents RACT for this vinyl coating plant. USEPA believes that the technical support demonstrates that the Ford vinyl coating plant in Mt. Clements, Michigan is outside the industry norm in capabilities and characteristics. Pursuant to USEPA guidance contained in the Administrator's February 24, 1978 memorandum, RACT determinations may be case by case provided that adequate documentation exists. Therefore, USEPA approves the emission limitation in Rule 336.1610 as representing RACT for this vinyl coating plant.

c. Rule 336.1610 contains plant by plant extended schedules for compliance with the RACT emission limits for automobile and light duty truck coating. USEPA indicated in the proposed rulemaking that it believed that the schedules provided for compliance as expeditiously as practicable. No public comments were received on this issue. Therefore, USEPA approves the extended schedules as part of the federally approved SIP.

Because the State has satisfactorily responded to USEPA's concerns on Rule 336.1610, USEPA approves the rule a part of the federally approved Michigan SIP.

4. Rule 336.1618 allows the use of cutback asphalt during the months of October through April. According to the CTG for this source category, cutback asphalt should be used only when ambient temperatures are less than 50 degrees Fahrenheit. Therefore, USEPA asked the State to demonstrate that temperature fluctuations occurring in the months of October and April necessitate the use of cutback asphalt.

State Response

In its October 12, 1979 response, the State of Michigan submitted information on temperature fluctuations in the months of April and October for three cities in Lower Michigan and one city in the Upper Peninsula. In addition, average normal temperatures were examined for other areas in the State during these months. Using this data, the State demonstrated that for significant portions of these two months temperatures are below 50 degrees Fahrenheit throughout the State.

USEPA Response

Based on the State's technical demonstration, USEPA believes the use of cutback asphalt is appropriate in Michigan during the period from October to April. Therefore, USEPA approves Rule 336.1618 as part of the federally approved Michigan SIP.

Carbon Monoxide

Two areas in the State of Michigan were designated as nonattainment for the carbon monoxide (CO) National Ambient Air Quality Standards. These areas are located in the City of Detroit and the County of Saginaw. In the August 13, 1979 Notice of Proposed Rulemaking (44 FR 47350, 47356) USEPA did not propose rulemaking on the control strategy for the City of Detroit nonattainment area. Proposed rulemaking on the CO control strategy for Detroit will appear in a supplemental notice of proposed rulemaking on the transportation plans, and on the requirement of inspection/maintenance.

In this notice USEPA is taking final action on the State's control strategy for the CO nonattainment area in Saginaw County. The State's control strategy for Saginaw County is based on the control of stationary source emissions from large ferrous cupolas and mobile source emission reductions which will be obtained through the Federal Motor Vehicle Program. Michigan submitted a new Rule (Rule 930, R. 336.1930) which provides for the control of emissions of carbon monoxide from ferrous cupola operations. USEPA's review of that rule noted that it did not provide for submittal of necessary increments of progress as required under Sections 110(a)(2)(B) and 172(b)(8) of the Clean Air Act. USEPA proposed to approve Rule 930 on the condition that the State provide specific assurances that detailed compliance schedules containing all the necessary increments of progress be submitted to USEPA as SIP revision, not later than six months after the effective date of the rule. No comments were received other than the

State's response to the deficiencies noted by USEPA.

State's Response

The State noted that the Rule requires subject sources to submit a program for compliance with the Rules within six months after the effective date of the rule. Section (4) of Rule 930 requires that sources submitting programs for compliance with Rule 930 include in their written programs dates by which equipment shall be ordered, date of commencement of construction, date of initial start-up of equipment and date final compliance will be achieved. Additionally, Michigan submitted a draft compliance order with detailed increments of progress and committed itself to submitting these schedules to USEPA.

USEPA Response

In USEPA's opinion this commitment resolves the noted deficiency.

Final Determination

USEPA approves Rule 930 (R. 336.1930) and the control strategy to attain the carbon monoxide NAAQS in Saginaw County.

Maintenance/Malfunction Provisions

USEPA, in its August 13, 1979 Notice of Proposed Rulemaking (44 FR 47350), stated that Michigan submitted Rules 911, and 912 (R 336.1911 and 1912) as its maintenance malfunction program. USEPA reviewed the Rules in that Notice and proposed to approve them as they were submitted. No comments were received regarding these Rules. The Rules require a source to prepare a malfunction abatement plan to detect, prevent, and correct malfunctions or equipment failures which would result in excess emissions. The Rules also specify what steps must be taken as a result of an abnormal condition or the breakdown of process or controlled equipment.

Final Determination

USEPA approves these Rules as submitted by the State. However, compliance with these requirements does not excuse violation of emission limitations.

New Source Review

As part of its Part D plan the State of Michigan submitted regulations which implemented a new source review program for nonattainment areas as well as regulations for the Prevention of Significant Deterioration (PSD) of attainment areas. This submittal included proposed Rules 101 through 285 (R 336.1101-1285). USEPA did not take

any action on the PSD regulations in the August 13, 1979 Notice of Proposed Rulemaking. Later those regulations which pertained solely to PSD were withdrawn by the State. The numbers of the rules withdrawn are listed in the paragraph entitled "Prevention of Significant Deterioration".

In its August 13, 1979 Notice of Proposed Rulemaking (44 FR 47350), USEPA solicited comment on the State's proposed rules and noted several deficiencies therein. The only comment received on the new source review rules was from the State. The State's response to the deficiencies noted by USEPA are discussed below:

(1) The first deficiency pertained to USEPA's concern that the State's plan appeared to exempt carbon monoxide (CO) from the offset regulation and that the SIP did not demonstrate a margin for growth in those CO nonattainment areas where stationary sources contribute to ambient violations. Two areas of the State, in the City of Detroit and County of Saginaw, were listed as nonattainment for CO.

USEPA requested that the State correct the deficiency by submitting additional data for quantifying the growth margin provided for in the SIP or, in the alternative submit another SIP which does provide for a growth margin.

State Response

The State in its comments of October 12, 1979, responded by describing how the data submitted demonstrates the use of an accommodative approach for the reduction of CO. The State anticipates that its approach will result in a 100,000 ton per year margin of excess control for CO in the Detroit area by 1987 and a 60,000 ton per year margin for the Saginaw area in 1983.

USEPA Response

USEPA accepts Michigan's interpretation and use of the accommodative approach for the reduction of CO.

(2) The second deficiency cited by USEPA concerned a showing that issuance of permits would not interfere with reasonable further progress toward attainment as defined under Section 171 of the Act. USEPA stated that this deficiency could be corrected by State submitting a procedure for determining that reasonable further progress is being achieved.

State Response

The State in its comments pointed out that it has provided for reasonable further progress in the SIP because minor sources, in addition to major sources, are subject to the emission

offset rules and because the offset requirement is greater than one for one.

USEPA Response

USEPA accepts Michigan's assessment that the SIP provides for reasonable further progress.

Final Determination

Rules 336.1101-1122, 1201, 1202, 1203(1), 1204, 1206-1236, 1239-1240(1) and (2)(a)(b)iv, (3), 1241, 1243, and 1280-1285 are approved as meeting the new source review requirements of Sections 110(a)(2)(I), 171, 172, and 173.

Part C—Prevention of Significant Deterioration

To meet the requirements of Section 110(a)(2)(D) and Part C of the Clean Air Act, Michigan had submitted proposed rules 203(2), 203(3), 205, and 231. In the August 13, 1979 Notice USEPA indicated that it would be taking action on these rules in a separate Federal Register Notice. On July 25, 1979 Michigan requested that the authority to implement the program for the prevention of significant deterioration (PSD) be delegated to them and withdrew the PSD rules from review by USEPA. The rules withdrawn from the April 25, 1979 submittal are as follows: 203(2), 203(3), 205, 231-237, and 242. In a letter dated September 10, 1979 USEPA granted Michigan authority to implement the PSD program. Notice of the delegation was given February 7, 1980 (45 FR 8299).

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides attainment by the deadline required by Section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new deadlines under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to 1977 Amendments,

sources that failed to comply with the pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply to only new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source has to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable Section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, USEPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a Section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing requirements, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a state will be reviewed and acted upon by USEPA as a SIP revision. In addition, as discussed in the April 4, 1979 Federal Register (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Sections 110(a), 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. § 7410(a), 7502, 7601(a)).

Dated: April 23, 1980.
Douglas Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1170(c) is amended by adding paragraphs 16 to 20 to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(16) On April 25, 1979, the State submitted its nonattainment area plan for areas designated nonattainment as of March 3, 1978 and as revised on October 5, 1978. This submittal contained Michigan's Part D attainment plans for particulate matter, carbon monoxide, sulfur dioxide, transportation, new source review, plus a copy of Michigan's existing and proposed regulations. USEPA is not taking action at this time to include in the federally approved SIP certain portions of the submittal: Michigan's sulfur dioxide control strategy for Ingham County; provisions in R 336.1310 concerning open burning; 336.1331, insofar as it may pertain to process sources in the iron and steel category and site specific revisions; 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, and 1357 as they pertain to specific iron and steel source operations; Part 5, Extension of Sulfur Dioxide Compliance Date for Power Plants Past January 1, 1980; Part 7, Emission Limitations and Prohibitions—New Sources of Volatile Organic Compound Emissions, R 336.1701–1710 controlling minor sources of volatile organic compounds; Part 11,

Continuous Emission Monitoring; Part 13, Air Pollution Episodes; Part 16, Organization and Procedures; and Part 17, Hearings. In addition USEPA is taking no action on the State's control strategy for the attainment of carbon monoxide in the City of Detroit; the transportation control plans, the requirement of vehicle inspection and maintenance, and general requirements which are not Part D requirements.

(17) On October 12, 1979, the State submitted comments and commitments in response to USEPA's notice of proposed rulemaking.

(18) On January 9, 1980, the State submitted a copy of the finally adopted rules of the commission. These rules became fully effective January 18, 1980. All of the rules submitted are approved except those identified in paragraph (16) on which no action has been taken at this time. (March 1980).

(19) On February 6, 1980, the State submitted the visible emission test method for stationary sources referenced in R 336.1303 as being on file with the Michigan Air Pollution Control Commission.

(20) On March 31, 1980, the State submitted revisions to the conditional approval schedules for total suspended particulates.

§ 52.1171 [Amended]

2. Section 52.1171 is amended by changing the heading "Photochemical Oxidants (hydrocarbons)" to "Ozone".

3. Section 52.1172 is revised to read as follows:

§ 52.1172 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Michigan's plan for the attainment and maintenance of the National Ambient Air Quality Standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plan satisfies all requirements of Part D, Title I of the Clean Air Act as amended in 1977, except as noted below. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

4. Section 52.1173 is revised as follows:

§ 52.1173 Control strategy: particulates.

(a) Part D—Conditional Approval—The Michigan plan for primary and secondary nonattainment areas which do not include iron and steel sources is approved provided that the following condition is satisfied:

(1) The State officially adopts final industrial fugitive regulations that represent RACT for traditional sources and submits these finally effective regulations to USEPA.

(b) Part D—No Action—USEPA takes no action on the adequacy of rules submitted by Michigan to control particulate emissions from the iron and steel making industries. Therefore, USEPA takes no action on the control strategy for particulates in those areas which are designated nonattainment for particulates and which contain iron and steel sources.

5. Section 52.1174 is revised as follows:

§ 52.1174 Control strategy: ozone.

(a) Part D—Conditional Approval—Michigan Rules 336.1603 and 336.1606 are approved provided that the following conditions are satisfied.

(1) Rule 336.1603—The State submits detailed compliance schedules containing increments of progress by March 31, 1981 for sources with final compliance dates prior to December 31, 1982 and by September 31, 1981 for sources with final compliance dates beyond December 31, 1982.

(2) Rule 336.1606—The State either promulgates a rule with a 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submits it to USEPA or demonstrates that allowable emissions resulting from the application of its existing rule with 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of the CTG presumptive norm.

§ 52.1176 [Amended]

6. Sections 52.1176(c), (d), and (e) are hereby revoked pursuant to section 110(a)(5)(A) of the Clean Air Act (42 U.S.C. 7410) and reserved.

7. Section 52.1177 is revised as follows:

§ 52.1177 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect information presented in Michigan's plan, except where noted.

[06]0026

Air quality control region and nonattainment area	Pollutant					
	TSP		SO ₂		NO _x	CO
	Primary	Secondary	Primary	Secondary		O ₃
South Bend-Elkhart-Benton Harbor Interstate (AQCR 82):						
a. Primary and Secondary Nonattainment Areas	c	f	c	c	c	d
b. Remainder of AQCR	c	c	c	c	c	d
Central Michigan Intrastate (AQCR 122):						
a. Primary and Secondary	d	c	d	c	c	d
b. Remainder of AQCR	c	f	c	c	c	b
Metropolitan Detroit-Port Huron Intrastate (AQCR 123):						
a. Primary and Secondary	d	f	c	c	c	d
b. Remainder of AQCR	c	c	c	c	c	c
Metropolitan Toledo Interstate (AQCR 124):						
a. Primary and Secondary	c	f	c	c	c	d
b. Remainder of AQCR	c	c	c	c	c	c
South Central Michigan Intrastate (AQCR 125):						
a. Primary and Secondary	d	f	d	c	c	d
b. Remainder of AQCR	c	c	c	c	c	c
Upper Michigan Intrastate (AQCR 126):						
a. Primary and Secondary	c	f	c	c	c	d
b. Remainder of AQCR	c	c	c	c	c	b

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable. These dates may be changed through revisions to the SIP by the State.

NOTE.—Sources subject to the plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR § 52.727.

NOTE.—For actual nonattainment designations, refer to 40 CFR Part 81.

a. July 1975.

b. Air quality levels presently below primary standards or area is unclassified.

c. Air quality levels presently below secondary standards or area is unclassified.

d. December 31, 1982.

e. December 31, 1987.

f. July 31, 1985.

[FR Doc. 80-13894 Filed 5-5-80; 8:45 am]

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40 CFR Part 180

[FRL 1485-5; OPP-300007B]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Inert Ingredient; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This notice reinstates in the Code of Federal Regulations (CFR) an inert ingredient that was inadvertently dropped out of the CFR.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. John Shaughnessy, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460, 202/426-9425.

SUPPLEMENTARY INFORMATION: In FR Doc. 75-32972 appearing at page 57215, in the issue of Monday, December 8, 1975, an exemption from the requirement of a tolerance was established in § 180.1001(d) for residues of the inert ingredient alpha-alkyl(C₁₂C₁₈)-omega-hydroxypoly(oxyethylene/

oxypropylene) heteric polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles. The inert ingredient was subsequently published in the 1976 edition of the CFR but inadvertently was not printed in the 1977 and all subsequent CFR editions. This omission is being corrected by reinstating the dropped inert ingredient in alphabetical order in § 180.1001(d) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert Ingredients	Limits	Uses
* * * * *		
alpha-Alkyl(C ₁₂ C ₁₈)-omega-hydroxypoly(oxyethylene/oxypropylene) heteric polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles.		Surfactants, related adjuvants of surfactants.
* * * * *		

Dated: April 30, 1980.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-13892 Filed 5-5-80; 8:45 am]

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